(445)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition (T) No. 6068of 2006

PETITIONER : Chhattisgarh State Electricity Board, P.O. Sunder Nagar, Danganiya, Raipur (Chhattisgarh), Through its Secretary.

Vs.

RESPONDENTS

1. Union of India, Ministry of Finance, Department of Revenue, North Block, New Delhi – 110 001 through its Secretary.

   Also at : Central Revenue Building, Civil Lines, Raipur, Chhattisgarh.
2. Union of India, Ministry of Finance, Central Board of Direct Taxes, North Block, New Delhi – 110 001.

   Also at : Central Revenue Building, Civil Lines, Raipur, Chhattisgarh.
3. The Chief Commissioner of Income Tax, Raipur.
4. The Assistant Commissioner of Income Tax, Circle 2 (1) Raipur.

Writ Petition under Article 226 read with Article 227 of the Constitution of India .

Present: Shri Ravi Shankar Prasad, Senior Advocate with Smt. Suparna Srivastava and Shri P.S. Koshy, counsel for the petitioner.

Shri B.K. Rawat counsel for respondents No. 3 and 4.

ORAL ORDER
(Passed on 27th April, 2007)

The petitioner – Chhattisgarh State Electricity Board (for short "the Board") in this petition filed under Articles 226 and 227 of the Constitution calls in question the correctness or otherwise of the orders passed by the Assessing Authority in levying interest under Section 234 A, 234 B and 234C of the Income Tax Act, 1961 ("the Act" for short) while concluding the assessments for the assessment year 2002-03.

(2) This Court while entertaining the petition had granted interim order of stay, staying the demand notices issued by the respondent – Assessing Authority and that order is still operating against the respondents.

(446)

(3) In my view, if for any reason, the petitioner –Board was aggrieved by the levy of interest alone by the Assessing Authority, it has to file an appropriate application for waiver of interest either before the Board of Revenue or before the Chief Commissioner, Income Tax. Without exhausting that remedy which in my opinion is not only an alternative, effective and efficacious remedy, the petitioner – Board could not have approached this Court.

(4) In that view of the matter, without going into the other details of the case, the petition is disposed of. Liberty is reserved to the petitioner – Board, if they so desire, to file an appropriate application for waiver of interest levied by the Assessing Authority in exercise of his powers under Section 234-A, 234-B and 234-C of the Act before the Board of Revenue or before the Chief Commissioner, Income Tax, within a month's time from today. If for any reason the Board has delegated its powers to any other authority, it is at liberty to transfer the application/petition that may be filed by the petitioner-Board for adjudication and decision, to that authority.

(5) If an when such an application is field by the Petitioner-Board, the Board of Revenue or the Chief Commissioner, Income Tax or any other authority empowered under the Act, would consider the same in accordance with law as expeditiously as possible, at any rate, within two months from the date of filing of the application. Till such time the interim order granted earlier by this Court will enure to the benefit of the petitioner – Board. Ordered accordingly.

Sd/-
Chief Justice